IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/09/2003

CORAM

THE HON'BLE MR.JUSTICE R.JAYASIMHA BABU
AND
THE HON'BLE MR.JUSTICE S.K.KRISHNAN

W.A.No.2548 of 2002

The Manager (Personnel and Administration),
Triveni Engineering and Industries Ltd.,
(Oil and Gas Division),
Formerly Triveni Oil Field Services Ltd.,
Jeevan Tara Building,
Gate No.4,
1st Floor,
No.5, Parliament Street,
New Delhi-110 001. ..Appellant

-Vs-

1.Neslin Joseph Prim,
No.570, S.Block, Housing Board,
Cemetry Road,
Washermanpet,
Chennai-600 021.

2.The Presiding Officer,
Central Government Industrial
Tribunal cum Labour Court,
Chennai-34. ..Respondents

Appeal against the order of the learned single Judge dated 4.6.2002 passed in W.P.No.1593 of 2002.

!For appellant : Mr.N.V.Srinivasan

^For respondents : Mr.R.Viduthalai

:JUDGMENT
(Delivered by R.JAYASIMHA BABU, J.)

The appellant is the employer. It is aggrieved by the fact that the dispute between it and one of it's former employees was referred for adjudication to the Central Government Industrial Tribunal functioning at Chennai.

2. According to the appellant, the said Tribunal at Chennai has no jurisdiction to try the matter, as the appellant does not have its industry at Chennai and the former employee had not been employed by it at any place within the State of Tamil Nadu. He had been employed outside the State and the place at which he was working at the time his employment was terminated was at Bharuch in Gujarat. The employer has its head office at Delhi. It does not have a branch at Chennai or elsewhere in the State of Tamil Nadu.

3. Learned counsel for the appellant took us through the provisions of the Industrial Disputes Act and also referred us to several judgments of the Supreme Court and various High Courts in support of his submission that the object of the Industrial Disputes Act is to promote industrial peace and in order to achieve that object any dispute concerning an industry and it's workmen should be tried and decided by a Labour Court or a Tribunal, which functions at or near the place where that industry is located or the place at which the workman had worked. The decisions, on which the counsel relied, were decisions which were rendered in the context of rival claims regarding which Government was the appropriate Government to make a reference and in that context the Courts had to consider as to whether the dispute that was required to be resolved had greater nexus with one or the other State, as the State with which the dispute had the greater nexus would become the appropriate Government and the jurisdiction of the Labour Court or the Tribunal would be dependant upon the Government of the State in which that Court or Tribunal is situated being the appropriate government.

4. In this case, it is unnecessary to launch an enquiry as to which is the appropriate Government, as it is admitted that the appropriate Government in the case of the appellant, which is engaged in the business of oil exploration, is the Central Government. That fact is undisputed. The Central Government, in exercise of the powers given to it under Section 7-A of the Industrial Disputes Act, has constituted several Industrial Tribunals, which are located in different parts of the country. Section 7-A of the Act reads thus:-

"7-A. Tribunals--(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless--

(a) he is, or has been, a Judge of a High Court; or
(aa)he has, for a period of not less than three years, been a District Judge or an Additional District Judge;

(4) The appropriate Government may, if it so thinks fit, appoint two

persons as assessors to advise the Tribunal in the proceeding before it."

5. This provision which empowers the Central Government to constitute one or more Tribunals does not require the Government to further specify the area over which the Tribunal shall have jurisdiction nor does it provide that the headquarters designated for the Tribunal shall be the limit of its jurisdiction. The section does not make any reference to geographical area. All that the notification is required to set out is to specify the matters as mentioned in the second schedule or the third schedule to the Act in regard to which the Industrial Tribunal may adjudicate.

6. The notification issued by the Central Government constituting the Central Government Industrial Tribunal at Chennai does not specify any geographical area. The Tribunal will have to try such cases as are referred to it by the Central Government and it has no jurisdiction to decline to adjudicate any case that is referred to it by the Central Government as long as it is not disputed that the Central Government is the appropriate Government for making the reference and what has been referred to it is an industrial dispute.

7. Learned counsel however submitted that there are indications in other provisions of the Act, which would warrant a geographical limitation being placed on the jurisdiction of the Tribunal.

8. In this context, reference was made to Section 4 of the Act, which deals with Conciliation Officers. Counsel referred to Section 4 (2), which provides that a Conciliation Officer can be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period. The argument was that as every dispute has to be first conciliated upon and the Conciliation Officer has jurisdiction over a specified area, the ultimate adjudication of that dispute must naturally be by a Court or a Tribunal which has jurisdiction over the area in which the Conciliation Officer had conciliated.

9. The Conciliation Officer himself or herself has no power to make a reference to the Tribunal or the Court. The Conciliation Officer can only record a settlement or, in the event of failure, submit a report regarding that failure. It is then for the concerned Government to decide whether or not to make a reference. That decision of the Government is it's decision and not the decision of the Conciliation Officer. While making the reference, the Government is in no way trammelled by the fact that the Conciliation Officer who had made the report had a limited area within which he could function. It is open to the Government to make the ultimate reference for adjudication of the dispute either to a Labour Court or to an Industrial Tribunal, depending on the nature of the dispute and there is no compulsion in any part of the Act that the Government must make the reference only to Tribunal or Court, which is constituted in the area over which the conciliation officer had functioned. In any event, in this case the conciliation took place at Chennai and the reference made is to the Central Government Industrial Tribunal at Chennai.

10. Learned counsel then submitted that in the scheme of the Act a

special provision has been made for creation of a National Industrial Tribunal for adjudication of questions of national importance or questions which affect industries located in more than one State and it is only such a Tribunal created under Section 7-B which can deal with disputes concerning industries which may be located in any corner of the country, but that a Tribunal constituted under Section 7-A must be regarded as being one which is limited to a territory. The implication of the argument is that if the seat of the Tribunal is located within a State, it's jurisdiction in any case should be regarded as extending not beyond the State in which it is located.

11. Section 7-B enables the Central Government to constitute one or more National Industrial Tribunals. Such Tribunals may be constituted where, in the opinion of the Central Government, disputes involving questions of national importance arise or the industrial disputes are of such a nature that industrial establishments situated in more than one State are likely to be affected by such disputes. The fact that the Central Government has such a power under Section 7-B to constitute a National Tribunal does not on that score warrant a limitation being read into Section 7-A, with regard to the geographical area over which a Tribunal constituted under that provision is to exercise jurisdiction.

12. It is a moot point as to whether the Central Government itself can demarcate such geographical areas while constituting Tribunals under Section 7-A of the Act. The Central Government possibly has such a power. However, in the notification constituting the Tribunal at Chennai there is no such limitation spelt out with regard to the area over which it can function. What the Tribunal is concerned with is the dispute that is referred to it and it is for the parties concerned with that dispute to place the necessary evidence before that Tribunal to enable it to adjudicate the dispute. In this case it is not the case of the appellant that the dispute itself is not an industrial dispute or that the Central Government is not the appropriate Government.

13. What is being really canvassed before us is a matter of practical convenience. The fact that the appellant has it's headquarters at Delhi, had it's place of work at Bharuch in Gujrat and not in the State of Tamil Nadu, apparently causes inconvenience to it in having to bring its witnesses to the Industrial Tribunal at Chennai and it also causes some additional expenditure. It is open to the appellant to apply to the Central Government under Section 33-B of the Industrial Disputes Act which is a provision designed to meet situations like the present one.

14. Where an appropriate Government has constituted more than one Industrial Tribunal or Labour Court and parties find for good reasons that it is necessary to request transfer of disputes from one such Court or Tribunal to another, it is open to them to make a request to the appropriate Government under Section 33-B of the Act and that Government is under a duty to consider that request and to deal with it in a manner which is fair and decide the request after giving reasons.

15. The fact that the Central Government as the appropriate

Government has constituted several Tribunals and located the headquarters in different corners of the country may indeed cause inconvenience in cases like the present one where a former employee has sought to raise a dispute in the place where he is residing. For an employer who has a work force drawn from different corners of the country, it would indeed be extremely inconvenient and would amount to harassment if such an employer were to be made party to disputes raised by it's former employees after they return to their respective home States and in having to answer their claims in different corners of the country. But, that is an aspect which can very well be conveyed to the Central Government when a request is made for transfer of the dispute under Section 33-B of the Act. Each request for transfer of the of the reference has to be examined on it's own merits by the appropriate government.

16. A Tribunal constituted by the Central Government cannot decline to adjudicate the dispute referred to it, merely because in the view of one of the parties before it the Central Government should have referred the dispute to an another Tribunal.

17. The Central Government has jurisdiction and is competent to assert authority in every nook and corner of the country and it has the power to constitute Industrial Tribunals and Labour Courts with their headquarters at places which, in it's opinion, would serve the larger purpose of the Act in ensuring speedy adjudication, with minimum inconvenience to the parties to the industrial disputes referred by it in cases where it is the appropriate government. If, as felt by the appellant, the Central Government has in this case erred in choosing to refer the dispute to the Tribunal at Chennai, the appellant can have recourse to Section 33-B of the Act. Leaving that remedy open to the appellant, this appeal is dismissed.

Index: Yes
Website: Yes

The Presiding Officer,
Central Government Industrial
Tribunal cum Labour Court,
Chennai-34.

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